

July 24, 2008

Marlene H. Dortch
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: *Broadband Industry Practices*, WC Docket No. 07-52

Dear Ms. Dortch:

On July 24, 2008, on behalf of the Telecommunications Industry Association ("TIA"), Ray Strassburger, Nortel; Doug Cooper, Ciena; Kevin Krufky, Alcatel-Lucent; Jason Friedrich, Motorola; Jeffrey Campbell, Cisco; Rebecca Schwartz, TIA; and Bryan Tramont, Wilkinson, Barker, and Knauer, LLP, met with the following individuals with respect to the above-mentioned proceeding: Commissioner Robert McDowell, Angela Giancarlo, and Nicholas Alexander.

At these meetings, TIA distributed and discussed the attached presentation. TIA emphasized that network management concerns should be addressed case-by-case. The Commission's *Internet Policy Statement* has been a success precisely because it has afforded network providers with the flexibility to innovate and to optimize their networks in response to evolving consumer needs.

TIA also emphasized the continuing and growing need for network management as Internet traffic expands and traffic patterns shift. New applications are driving increasingly heavy use of broadband networks. While expanded network capacity may be necessary, it will not alone be a sufficient response. Rather, network providers will require flexibility to manage traffic on their systems to best meet consumer needs. Indeed, consumers demand management for other reasons as well, including the control of spam, viruses, and inappropriate content. For these reasons, even the most advanced high-speed networks in use today worldwide are highly managed.

TIA further underscored the threats that would be posed by any regime that required providers to justify network management practices in the first instance. This approach would retard development and deployment of new offerings. Any framework adopted by the Commission should first require complaining parties to

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demonstrate (1) net harm (2) to consumers on the whole (3) resulting from an unreasonable network management practice. Only following such a demonstration should providers bear the burden of justifying the challenged practice. TIA also explained that overinclusive and/or vague rules would be similarly dangerous. Categorical and overly broad restrictions on certain behaviors would diminish the market's ability to respond to changing user needs and lock in current technological assumptions, undermining consumer welfare. Instead, the Commission should render only narrowly construed holdings addressing specific facts, leaving providers as much discretion as possible.

Please contact the undersigned with any questions.

Respectfully submitted,

/s/ Rebecca Schwartz

Rebecca Schwartz

Attachment

cc (via electronic mail):

Commissioner Robert McDowell
Angela Giancarlo
Nicholas Alexander